

10-01-04

Express Mail No.: EV 534 735 431 US

JPW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Gilbert *et al.* Confirmation No.: 5565
Serial No.: 10/629,891 Art Unit: 3629
Filed: July 29, 2003 Examiner: To be assigned
For: *Method And Apparatus for
Trading Energy
Commitments* Attorney Docket No: 60825-0321-US

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants enclose herewith an Information Disclosure Statement and List of References Cited by Applicant (PTO-1449) for the above-identified patent application. Applicants note that Reference A27 (Gilbert, Joel S., "Persistent & Reliable Demand Response: A Free Market Model for Resource Adequacy", Apogee Interactive, Inc., (March 18, 2003)) contains a typographical error regarding the year of publication. The cover page of the document shows an incorrect date of March 18, 2002. The correct date, however, is March 18, 2003, which corresponds to the year of the copyright of the document (located on the bottom right corner of each page of the document).

Applicants believe that no fee is required with the submission of the enclosed Information Disclosure Statement. However, if it is found that a fee is necessary, please charge the required fee to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310. A copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

Date: September 29, 2004

David R. Owens

40,756

(Reg. No.)

MORGAN LEWIS & BOCKIUS LLP
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, California 94306
(650) 843-7509



Express Mail No. EV 533 735 431 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Gilbert et al.	Confirmation No.:	5565
Serial No.:	10/629,891	Art Unit:	3629
Filed:	July 29, 2003	Examiner:	To be assigned
For:	METHOD AND APPARATUS FOR TRADING ENERGY COMMITMENTS	Attorney Docket No.:	60825-0321-US (formerly 9842- 0321-999)

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:
 - 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
 - 1b. A legible copy of :
 - ☒ Each U.S. patent application publication and U.S. and foreign patent;
 - ☐ Each publication or that portion which caused it to be listed on the PTO-1449;
 - ☐ For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
 - ☐ all other information or portion which caused it to be listed on the PTO-1449.
 - 1c. ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.
 - 1d. ☐ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
2. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
 - ☐ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);

- ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;
- ☒ Before the mailing of the first Office action on the merits;
- ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

3. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

(Check either Item 3a or 3b)

- 3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:
- ☐ enclosed
 - ☐ to be charged to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (order no.).

(Item 3b to be checked if any reference known for more than 3 months)

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

(Check either Item 4a or 4b)

- 4a. ☐ The Certification Statement in Item 5 below is applicable.
- 4b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:
- ☐ enclosed.
 - ☐ to be charged to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (order no.).

5. ☐ Certification Statement (applicable if Item 3a or Item 4a is checked)

(Check either Item 5a, 5b or 5c)

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign

patent office in a counterpart application, and the communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.

6. ☐ Copies of each cited U.S. patent and each U.S. patent application publication are not enclosed pursuant to the USPTO OG Notice dated 05 August 2003 waiving the requirement under 37 C.F.R. 1.98(a)(2)(i) for U.S. patent applications filed after June 30, 2003.

7. ☐ This application is a continuation application under 37 C.F.R. §1.53(b) or (d).

(Check appropriate Items 7a, 7b and/or 7c)

- 7a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.

- 7b. ☐ Copies of publications listed on Form PTO-1449 from prior application Serial No. _____, filed on _____, of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).

- 7c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. _____, filed on _____, and are provided herewith.

8. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 8a)

- 8a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on _____. A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on _____.

9. ☐ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:

(Check Item 9a, 9b, or 9c)

- 9a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.

- 9b. ☐ set forth in the application.

- 9c. ☐ enclosed as an attachment hereto.

10. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (order no. 60825-0321-US).

11. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,

Date: September 29, 2004


David R. Owens

MORGAN, LEWIS & BOCKIUS LLP

2 Palo Alto Square

3000 El Camino Real, Suite 700

Palo Alto, CA 94306

40,756

(Reg. No.)

INFORMATION DISCLOSURE CITATION PTO-1449			Complete If Known	
			Application Number	10/629,891
Sheet 1 of 1			Filing Date	July 29, 2003
			First Named Inventor	Gilbert, Joel
			Art Unit	3629
			Examiner Name	To be assigned
			Attorney Docket Number	60825-0321-US

U.S. PATENT DOCUMENTS							
Examiner Initials	Cite No.	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Class	Subclass	Filing Date if Appropriate
		Number - Kind Code ¹					
	A01	4,390,876	06-28-1983	Bjorklund <i>et al.</i>	340	825.17	
	A02	5,237,507	08-17-1993	Chasek	364	464.04	
	A03	5,278,772	01-11-1994	Knupp	364	492	
	A04	5,481,140	01-02-1996	Maruyama <i>et al.</i>	307	11	
	A05	5,519,622	05-21-1996	Chasek	364	464.04	
	A06	6,473,744 B1	10-29-2002	Tuck <i>et al.</i>	705	412	
	A07	2002/0040356 A1	04-04-2002	Gluck <i>et al.</i>	705	412	
	A08	2002/0035552 A1	03-21-2002	Tsubura	705	412	
	A09	2002/0046197 A1	04-18-2002	Kashti	705	412	
	A10	2002/0087339 A1	07-04-2002	Pegram	705	1	
	A11	2002/0091626 A1	07-11-2002	Johnson <i>et al.</i>	705	37	
	A12	2002/0128987 A1	09-12-2002	Namba	705	412	
	A13	2002/0103745 A1	08-01-2002	Lof <i>et al.</i>	705	37	
	A14	2002/0147670 A1	10-10-2002	Lange	705	35	
	A15	2002/0194012 A1	12-19-2002	Maekawa <i>et al.</i>	705	1	
	A16	2003/0041016 A1	02-27-2003	Spool <i>et al.</i>	705	37	
	A17	2003/0041017 A1	02-27-2003	Spool <i>et al.</i>	705	37	
	A18	2003/0041038 A1	02-27-2003	Spool <i>et al.</i>	705	412	
	A19	2003/0041039 A1	02-27-2003	Spool <i>et al.</i>	705	412	
	A20	2003/0046252 A1	03-06-2003	Spool <i>et al.</i>	705	412	
	A21	2003/0055664 A1	03-20-2003	Suri	705	1	
	A22	2003/0055676 A1	03-20-2003	Huneycutt	705	1	
	A23	2003/0055677 A1	03-20-2003	Brown <i>et al.</i>	705	1	
	A24	2003/0061143 A1	03-27-2003	Gustafson	705	37	
	A25	2003/0074304 A1	04-17-2003	Okada	705	37	
	A26	2003/0093345 A1	05-15-2003	Cutbirth	705	35	

FOREIGN PATENT DOCUMENTS								
Examiner Initials		Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Class	Subclass	Translation	
		Country Code ² - Number ³ - Kind Code ⁴ (if known)					Yes	No
							X	

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ² Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁵ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

INFORMATION DISCLOSURE CITATION PTO-1449				<i>Complete If Known</i>	
				Application Number	10/629,891
				Filing Date	July 29, 2003
				First Named Inventor	Gilbert, Joel
				Art Unit	3629
				Examiner Name	To be assigned
Sheet	2	of	2	Attorney Docket Number	60825-0321-US

OTHER NON PATENT LITERATURE DOCUMENTS								
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published						
	A27	GILBERT, Joel S., "Persistent & Reliable Demand Response: A Free Market Model for Resource Adequacy", Apogee Interactive, Inc., (March 18, 2003).						
	A28	SMITH <i>et al.</i> , "Demand Response & Reliability: Following The Fed Model", Public Utilities Fortnightly, pp. 33-35 (May 1, 2003).						
	A29	SMITH, William M., "Market-Driven Demand Response", MDDR Newsletter, Electric Power Research Institute, (Spring/Summer 2002).						

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ² Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁵ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.